

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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| In the Matter of |) | File No. EB-09-TC-127 |
| |) | |
| Momentum Telecom, Inc. |) | NAL/Acct. No. 200932170086 |
| |) | |
| Apparent Liability for Forfeiture |) | FRN: 0005075403 |
| |) | |

ORDER

Adopted: July 30, 2009**Released: July 31, 2009**

By the Chief, Enforcement Bureau:

I. INTRODUCTION AND BACKGROUND

1. In this Order, we cancel a proposed forfeiture in the amount of six thousand dollars (\$6,000) issued to Momentum Telecom, Inc. ("Momentum") for apparent violation of section 222 of the Communications Act of 1934, as amended (the "Act"),¹ section 64.2009(e) of the Commission's rules,² and the Commission's *EPIC CPNI Order*,³ by failing to timely file an annual customer proprietary network information ("CPNI") compliance certification with the Commission on or before March 1, 2008.

2. On February 25, 2009, the Bureau issued to Momentum a *Notice of Apparent Liability for Forfeiture* ("NAL")⁴ proposing a forfeiture in the amount of six thousand dollars (\$6,000) based on Momentum's apparent violation of section 222 of the Act,⁵ section 64.2009(e) of the Commission's rules,⁶ and the Commission's *EPIC CPNI Order*. Specifically, the Bureau observed that Momentum failed to: submit an annual CPNI compliance certificate that was signed by an officer of the company; have a corporate officer with personal knowledge execute an annual CPNI compliance certificate; submit an annual CPNI compliance certificate stating that the company has established operating procedures adequate to ensure compliance with the Commission's rules governing protection and use of customer proprietary network information; and submit an annual CPNI compliance certificate that provides an

¹ 47 U.S.C. § 222.

² 47 C.F.R. § 64.2009(e).

³ *Implementation of the Telecommunications Act of 1996: Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information; IP-Enabled Services*, CC Docket No. 96-115; WC Docket No. 04-36, Report and Order and Further Notice of Proposed Rulemaking, 22 FCC Rcd 6927, 6953 (2007) ("*EPIC CPNI Order*"); *aff'd sub nom. Nat'l Cable & Telecom. Assoc. v. FCC*, No. 07-132, (D.C. Cir. decided Feb. 13, 2009).

⁴ *Momentum Telecom, Inc.*, Notice of Apparent Liability for Forfeiture, 24 FCC Rcd 2299 (Enf. Bur. 2009) ("*NAL*").

⁵ 47 U.S.C. § 222.

⁶ 47 C.F.R. § 64.2009(e).

explanation of any actions taken against data brokers and a summary of all customer complaints received in the past year concerning the unauthorized release of CPNI.

II. DISCUSSION

3. Upon review of the record, and based on additional information provided by Momentum, we agree with Momentum that it timely filed its CPNI certification for calendar year 2007. Momentum filed its certification together with the CPNI certification for Momentum Wholesale, LLC. Part of the Momentum filing was combined with the filing for its affiliate, Momentum Wholesale, LLC; however, both filings were timely and, together, contained all the required attachments for both affiliated entities. Accordingly, based on the record, we find that Momentum did not willfully and repeatedly violate section 222 of the Act,⁷ section 64.2009(e) of the Commission's rules,⁸ and the Commission's *EPIC CPNI Order*. Consequently, we conclude that no forfeiture should be imposed.

4. **ACCORDINGLY, IT IS ORDERED** that, pursuant to section 503(b) of the Communications Act of 1934, as amended ("Act"), and sections 0.111, 0.311 and 1.80(f) (4) of the Commission's rules, that the proposed forfeiture in the amount of six thousand dollars (\$6,000) issued to Momentum Telecom, Inc. in the February 25, 2009 *NAL* for willful and repeated violations of a Commission rule **IS CANCELLED**.

5. **IT IS FURTHER ORDERED** that a copy of this Order shall be sent by First Class Mail and Certified Mail Return Receipt Requested to Momentum Telecom, Inc.'s attorney of record, Devin L. Crock, Kelley Drye and Warren LLP, 3050 K Street, NW, Washington, DC 20007-5108.

FEDERAL COMMUNICATIONS COMMISSION

Kris A. Monteith
Chief, Enforcement Bureau

⁷ 47 U.S.C. § 222.

⁸ 47 C.F.R. § 64.2009(e).